

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CAYUGA MEDICAL CENTER AT ITHACA, INC.

and

1199 SEIU UNITED HEALTHCARE WORKERS EAST

Cases 03-CA-156375
03-CA-159354
03-CA-162848
03-CA-165167
03-CA-167194

NOTICE TO SHOW CAUSE

On October 28, 2016, Administrative Law Judge David I. Goldman issued a decision in this case. The Respondent filed exceptions with supporting argument, and the General Counsel filed an answering brief. The General Counsel filed cross-exceptions with supporting argument.

On December 16, 2017, the National Labor Relations Board issued a decision, 365 NLRB No. 170, ruling on the exceptions to several of the complaint allegations, but it severed and retained for future resolution the complaint allegations involving the Respondent's maintenance of certain provisions in its Nursing Code of Conduct. The severed allegations allege that the Respondent violated Section 8(a)(1) of the National Labor Relations Act, based on the prong of the analytical framework set forth in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004), that held an employer's maintenance of a facially neutral work rule would be unlawful "if employees would reasonably construe the language to prohibit Section 7 activity." *Id.* at 647. Recently, the Board overruled the *Lutheran Heritage* "reasonably construe" test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017).

Accordingly, the Board hereby issues the following notice to show cause why these complaint allegations should not be remanded to the judge for further proceedings in light of

Boeing, including, if necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

NOTICE IS GIVEN that any party seeking to show cause why the complaint allegations involving the Respondent's maintenance of the Nursing Code of Conduct provisions should not be remanded to the administrative law judge must do so in writing, filed with the Board in Washington, D.C., on or before October 29, 2018 (with affidavit of service on the parties to this proceeding). Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C. October 15, 2018.

By direction of the Board:

Farah Z. Qureshi

Associate Executive Secretary